

16 COURT ST., 26TH FLOOR [WWW.NEWYORKCONSUMERATTORNEY.COM](http://WWW.NEWYORKCONSUMERATTORNEY.COM)  
BROOKLYN, NY 11241-1026 E-mail: [ahmad@NewYorkConsumerAttorney.com](mailto:ahmad@NewYorkConsumerAttorney.com)

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May 1, 2024

**VIA Email to [ngoodman@ngoodmanlaw.com](mailto:ngoodman@ngoodmanlaw.com)**

H. Nicholas Goodman  
Nicholas Goodman & Associates, PLLC  
*Attorneys for Defendants*  
333 Park Avenue South, Suite 3A  
New York, N.Y. 10010

**Re: Final Demand for Mediation prior to accruing substantial trial preparation fees.**

***Francois v. Victory Auto Group LLC, et al., 1:22-cv-04447-JSR***

**CONFIDENTIAL SETTLEMENT COMMUNICATION**

Dear Mr. Goodman:

This letter provides our final demand for your office to work in good faith with us to schedule a mediation with Professor Paul Radvany as previously agreed to. As you are aware, my law partner Emma Catherine is leaving this firm on July 31, 2024. As you are also aware, she has been at the forefront of this case, especially in regards to taking depositions. As such, even though trial is currently set for October, she will need to do a significant amount of pretrial preparation prior to her departure in order to most zealously represent our client.

While we have so far held off on incurring these fees for trial preparation in light of the seeming agreement to mediation, we cannot continue to hold off without an actual date scheduled for mediation. We will begin our trial preparation work on **June 17, 2024**, so if your clients wish to avoid unnecessary accrual of fees, we must set a mediation date before then. Otherwise the significant fees to be incurred for trial preparations in June will be added to any fee petition award or future settlement amount your clients will have to pay. Prof. Radvany and Plaintiff are currently available June 5, 6, 7, 13, and 14. We are also available June 19, but that date is disfavored.

Our office has been seeking to go to mediation in this matter for over two years. We first send a demand for mediation on February 9, 2022. **Exhibit A.** Notably, that demand stated “The cost and time of a mediation is minimal when compared with the resources required to engage in summary judgment practice.” When this request for mediation was rejected, Plaintiff again made a request on February 22, 2023, stating “It seems to me if you think it might be helpful for the parties to sit down together *ex parte* then it would make at least as much sense to sit down together with their counsel in the context of a confidential mediation.” **Exhibit B.** However, Defendants still chose to proceed with a motion for summary judgment rather mediation, which was largely denied. Even after losing on this motion, Defendants filed for reconsideration rather than proceeding with mediation, which was denied in full. Defendants now face a jury question on punitive damages which their insurance will not cover.

Plaintiff wrote again to demand mediation on February 5, 2024. **Exhibit C.** In response, your office expressed “interest” in mediation on February 6 by email, but failed to substantively respond on issues of mediator selection and scheduling, as noted by Plaintiff’s February 7, 2024 letter asking for the same. **Exhibit D.** Your office eventually expressed interest in mediating with

Philip R. Schatz, who Plaintiff reached out to on March 1, 2024, but he stated that he was unavailable. **Exhibit E.** Accordingly, on March 4, 2024, Plaintiff emailed you asking if we could proceed instead with Professor Paul Radvany. On March 11, 2024, Plaintiff emailed again to ask about Prof. Radvany and provided an update on his schedule. On March 18, 2024, your office emailed stating you would be open to scheduling with Professor Radvany in late April or May. On March 20, 2024, Plaintiff provided Prof. Radvany's May availability. You never responded to this email. I called you on April 25 and left a lengthy voicemail message requesting the above but have not yet received a return message.

Please do not misinterpret our overtures to mediate this case. Given the evidence in the case and the rulings of the Court, we would be glad to proceed to trial. We want a definite answer for dates certain, or if you are no longer interested in mediation to tell us.

We request a definitive answer by May 10. Given the busy schedules of both of our offices and the unknown schedule of the mediator, if we are going to have mediation we should set a date soon before currently available dates are filled.

Sincerely,

/s/

Ahmad Keshavarz

Enclosures (prior requests for mediation).

cc: Patrick Selvey via email to [Pselvey@ngoodmanlaw.com](mailto:Pselvey@ngoodmanlaw.com)

**EXHIBIT A**  
**FEBRUARY 9, 2022 LETTER**

**AHMAD KESHAVARZ**

*Attorney at Law*

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February 9, 2023

**VIA Email to [ngoodman@ngoodmanlaw.com](mailto:ngoodman@ngoodmanlaw.com)**

H. Nicholas Goodman  
Nicholas Goodman & Associates, PLLC  
*Attorneys for Defendants*  
333 Park Avenue South, Suite 3A  
New York, N.Y. 10010

**Re: Request for mediation.**

***Francois v. Victory Auto Group LLC, et al., 1:22-cv-04447-JSR***

**CONFIDENTIAL SETTLEMENT COMMUNICATION**

Dear Mr. Goodman:

Our client has rejected your offer of settlement of February 3, 2023. Summary judgment briefs are due in 15 days. At this point I believe the most likely route to a settlement is a mediation with Joseph DiBenedetto.

The confidential confines of a mediation would minimize posturing and maximize a frank discussion. The cost and time of a mediation is minimal when compared with the resources required to engage in summary judgment practice. Moreover, Mr. DiBenedetto has settled even the most intractable of cases. Please let me know if you agree to the mediation. If so, I would agree to adjourn the summary judgment deadline to complete the mediation. Mr. DiBenedetto has March 3 and March 13 available.

I look forward to your response.

Sincerely,

/s/

Ahmad Keshavarz

cc: Patrick Selvey via email to [Pselvey@ngoodmanlaw.com](mailto:Pselvey@ngoodmanlaw.com)

**EXHIBIT B**  
**FEBRUARY 22, 2023 LETTER**

**AHMAD KESHAVARZ**

*Attorney at Law*

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Fax: (877) 496-7809

February 22, 2023

**VIA Email to [ngoodman@ngoodmanlaw.com](mailto:ngoodman@ngoodmanlaw.com)**

H. Nicholas Goodman  
Nicholas Goodman & Associates, PLLC  
*Attorneys for Defendants*  
333 Park Avenue South, Suite 3A  
New York, N.Y. 10010

**Re: Request for mediation.**

***Francois v. Victory Auto Group LLC, et al., 1:22-cv-04447-JSR***

**CONFIDENTIAL SETTLEMENT COMMUNICATION**

Dear Mr. Goodman:

I am in receipt of your February 10 email rejecting our request for a mediation with Joseph DiBenedetto, with the suggested dates of March 3 or March 13.

In your rejection email you did suggest arranging a conversation with Ms. Francois directly with the car dealership to attempt to resolve the matter. It seems to me if you think it might be helpful for the parties to sit down together *ex parte* then it would make at least as much sense to sit down together with their counsel in the context of a confidential mediation.

Therefore, I again make a request for mediation.

Sincerely,

/s/

Ahmad Keshavarz

cc: Patrick Selvey via email to [Pselvey@ngoodmanlaw.com](mailto:Pselvey@ngoodmanlaw.com)

**EXHIBIT C**  
**FEBRUARY 5, 2024 LETTER**

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Telephone: (718) 522-7900  
Fax: (877) 496-7900

February 5, 2024

**VIA Email to [ngoodman@ngoodmanlaw.com](mailto:ngoodman@ngoodmanlaw.com)**

H. Nicholas Goodman  
Nicholas Goodman & Associates, PLLC  
*Attorneys for Defendants*  
333 Park Avenue South, Suite 3A  
New York, N.Y. 10010

**Re: Request for mediation.**  
***Francois v. Victory Auto Group LLC, et al., 1:22-cv-04447-JSR***

**CONFIDENTIAL SETTLEMENT COMMUNICATION**

Dear Mr. Goodman:

Now that Defendants' motion for summary judgment has been denied in key respects, and the motion for reconsideration has been denied in full, we wanted to again reach out to suggest we attempt mediation in this case.

If you agree to mediation, we should nail down a mediator, and dates the mediator and our clients are available. Ideally, we would nail this down tomorrow or early Wednesday so that it can be provided to the court with the trial dates. In my experience with Judge Rakoff in the past he is going to want a trial to go forward immediately, so if we are going to have a mediation we need to move expeditiously.

We had requested Joseph DiBenedetto on a few occasions. We have found him to be very effective. Your client has rejected Mr. DiBenedetto in the past but, given we are now at the cusp of trial, I wanted to again propose him. And while he has been less effective than Mr. DiBenedetto, we have also been able to mediate cases successfully with Professor Paul Radvany, who is on the SDNY Mediator List.

And while we do not have personal experience with them, we have also received positive recommendations for Judge Helen Freedman and Professor Leslie Salzman, who are both also on the SDNY Mediator List. If there is someone else you propose let me know and we can see what we can work out.

We can go to the SDNY mediation program, such as through Professor Radvany, Judge Freedman, or Professor Salzman, but our preference is Mr. DiBenedetto. He has persevered in tough cases and is very dedicated to pushing all parties, and has done so more effectively than other mediators we have been before.

Therefore, I again make a request for mediation.

Sincerely,

/s/

Ahmad Keshavarz

cc: Patrick Selvey via email to [Pselvey@ngoodmanlaw.com](mailto:Pselvey@ngoodmanlaw.com)



**EXHIBIT D**  
**FEBRUARY 7, 2024 LETTER**

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Telephone: (718) 522-7900  
Fax: (877) 496-7900

February 7, 2024

**VIA Email to [ngoodman@ngoodmanlaw.com](mailto:ngoodman@ngoodmanlaw.com)**

H. Nicholas Goodman  
Nicholas Goodman & Associates, PLLC  
*Attorneys for Defendants*  
333 Park Avenue South, Suite 3A  
New York, N.Y. 10010

**Re: Response to February 6, 2024 Email.  
*Francois v. Victory Auto Group LLC, et al.*, 1:22-cv-04447-JSR**

**CONFIDENTIAL SETTLEMENT COMMUNICATION**

Dear Mr. Goodman:

This Letter is provided in response to your February 6, 2024 email. While expressing “interest” in mediation, you have not substantively responded to the items in our letter. Please provide whether you and your client are interested in going before the following mediators:

1. Joseph DiBenedetto;
2. Professor Paul Radvany;
3. Judge Helen Freedman;
4. Professor Leslie Salzman.

Additionally, if there are any mediators you wish to propose, either through or outside of the SDNY panel, please let us know. Again, we would prefer DiBenedetto because of our past experience with him, and additionally it will be easier and quicker to schedule the mediation with a private mediator rather than through the SDNY panel, which is crucial given that Judge Rakoff is unlikely to either postpone setting a trial date until mediation or set a trial date farther out than April.

Except for Judge Freeman, I will start contacting the above now to see if they are available in February or early March, but if there is someone else on the SDNY mediation panel you would like, please let us know as soon as possible. If we definitely want to go with Judge Freeman then I will also contact her now. Ideally we can get dates today if the mediators are available today or tomorrow, as unlikely as that might be.

As we have told you since we first requested mediation near the outset of this case, we need settlement negotiations to take place within the mediation process to avoid gamesmanship and, at this juncture, to also avoid delay. We will provide a mediation statement in advance of the mediation with our analysis and we can exchange demands and offers in that confidential process.

We need your commitment to mediation and preference for mediators if you wish to move forward with exploring this route for resolution of the case. We are interested, but we are also wary of how expedient we have to be to obtain a mediation prior to trial given Judge Rakoff’s preference for moving to trial quickly.

Sincerely,

/s/

Ahmad Keshavarz

cc: Patrick Selvey via email to [Pselvey@ngoodmanlaw.com](mailto:Pselvey@ngoodmanlaw.com)

# **EXHIBIT E**

## **EMAIL CORRESPONDENCE**

**From:** Emma Catherine  
**Sent:** Wednesday, March 20, 2024 10:38 AM  
**To:** 'Patrick Selvey' <[Pselvey@ngoodmanlaw.com](mailto:Pselvey@ngoodmanlaw.com)>; Nicholas Goodman <[Ngoodman@ngoodmanlaw.com](mailto:Ngoodman@ngoodmanlaw.com)>  
**Cc:** Ahmad Keshavarz <[ahmad@newyorkconsumerattorney.com](mailto:ahmad@newyorkconsumerattorney.com)>  
**Subject:** RE: Mediation in FCRA Case

Counsel,

Prof. Radvany has provided the following available dates for mediation which also work for us:

May 1, 7, 9, 10, 17

We understand that Mr. Goodman has substantial May conflicts. Would May 1 or 17 work?

Emma Catherine, Esq.  
Partner



FDCPA Attorneys: Protecting consumers from  
deceptive and unfair debt collection

**The Law Office of Ahmad Keshavarz**

**NOTE OUR ADDRESS HAS CHANGED BACK TO:**

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Website: [www.NewYorkConsumerAttorney.com](http://www.NewYorkConsumerAttorney.com)

Email: [emma@newyorkconsumerattorney.com](mailto:emma@newyorkconsumerattorney.com)

**From:** Patrick Selvey <[Pselvey@ngoodmanlaw.com](mailto:Pselvey@ngoodmanlaw.com)>  
**Sent:** Monday, March 18, 2024 10:33 AM  
**To:** Emma Catherine <[emma@newyorkconsumerattorney.com](mailto:emma@newyorkconsumerattorney.com)>; Nicholas Goodman <[Ngoodman@ngoodmanlaw.com](mailto:Ngoodman@ngoodmanlaw.com)>  
**Cc:** Ahmad Keshavarz <[ahmad@newyorkconsumerattorney.com](mailto:ahmad@newyorkconsumerattorney.com)>  
**Subject:** RE: Mediation in FCRA Case

Hi Emma,

We are not able to do April 3 or April 10, but we are open to scheduling mediation with Professor Radvany in late April or the first week of May. Please inquire as to his availability and let us know some dates that work on your end.

Regards,

Patrick L. Selvey Jr.

Nicholas Goodman & Associates, PLLC

333 Park Avenue South, Suite 3A

New York, New York 10010

Office: (212) 227-9003

Direct: (917) 386-2705

[pselvey@ngoodmanlaw.com](mailto:pselvey@ngoodmanlaw.com)

**From:** Emma Catherine <[emma@newyorkconsumerattorney.com](mailto:emma@newyorkconsumerattorney.com)>

**Sent:** Monday, March 11, 2024 1:05 PM

**To:** Nicholas Goodman <[Ngoodman@ngoodmanlaw.com](mailto:Ngoodman@ngoodmanlaw.com)>; Patrick Selvey  
<[Pselvey@ngoodmanlaw.com](mailto:Pselvey@ngoodmanlaw.com)>

**Cc:** Ahmad Keshavarz <[ahmad@newyorkconsumerattorney.com](mailto:ahmad@newyorkconsumerattorney.com)>

**Subject:** RE: Mediation in FCRA Case

Counsel,

We are following up to let you know that April 10 is no longer available.

We would like to get this scheduled soon and have the mediation as soon as practicable. The clerk told us that if another case set for trial is settled that our trial date may be moved up earlier. In that event the pretrial will be due in very short order, probably before we could arrange a mediation.

Emma Catherine, Esq.

Partner



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Email: [emma@newyorkconsumerattorney.com](mailto:emma@newyorkconsumerattorney.com)

**From:** Emma Catherine

**Sent:** Monday, March 4, 2024 3:21 PM

**To:** 'Nicholas Goodman' <[Ngoodman@ngoodmanlaw.com](mailto:Ngoodman@ngoodmanlaw.com)>; 'Patrick Selvey'  
<[Pselvey@ngoodmanlaw.com](mailto:Pselvey@ngoodmanlaw.com)>

**Cc:** Ahmad Keshavarz <[ahmad@newyorkconsumerattorney.com](mailto:ahmad@newyorkconsumerattorney.com)>

**Subject:** RE: Mediation in FCRA Case

Professor Radvany states that he is available April 3 and 10. Please let me know if those dates are available to you and your clients, or if you would like me to ask him what other dates after that he has available.

Emma Catherine, Esq.  
Partner



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Email: [emma@newyorkconsumerattorney.com](mailto:emma@newyorkconsumerattorney.com)

**From:** Emma Catherine

**Sent:** Monday, March 4, 2024 2:54 PM

**To:** 'Nicholas Goodman' <[Ngoodman@ngoodmanlaw.com](mailto:Ngoodman@ngoodmanlaw.com)>; Patrick Selvey  
<[Pselvey@ngoodmanlaw.com](mailto:Pselvey@ngoodmanlaw.com)>

**Cc:** Ahmad Keshavarz <[ahmad@newyorkconsumerattorney.com](mailto:ahmad@newyorkconsumerattorney.com)>

**Subject:** FW: Mediation in FCRA Case

Counsel,

Please see below message from Mr. Schatz.

In light of this difficulty, would you reconsider any of our proposed mediators? Again we are proposing Joseph DiBenedetto, Judge Freedman, Prof. Radvany, or Prof. Salzman.

Since you previously expressed interested in Prof. Radvany, we will reach out to him now, but please let us know if any of the others are of interest.

Emma Catherine, Esq.  
Partner



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Email: [emma@newyorkconsumerattorney.com](mailto:emma@newyorkconsumerattorney.com)

**From:** Philip R. Schatz <[PSchatz@WMD-LAW.com](mailto:PSchatz@WMD-LAW.com)>

**Sent:** Monday, March 4, 2024 2:18 PM

**To:** Emma Catherine <[emma@newyorkconsumerattorney.com](mailto:emma@newyorkconsumerattorney.com)>

**Cc:** Ahmad Keshavarz <[ahmad@newyorkconsumerattorney.com](mailto:ahmad@newyorkconsumerattorney.com)>

**Subject:** Re: Mediation in FCRA Case

Dear Emma- I am sorry to report that I will not be available in April. When my service ends, in three weeks, I will have been out of pocket for four weeks without the ability to do meaningful work on my caseload, so I will not be available for some time. I have a heavy deposition schedule April and May. Regrets, Phil

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**From:** Emma Catherine <[emma@newyorkconsumerattorney.com](mailto:emma@newyorkconsumerattorney.com)>

**Sent:** Monday, March 4, 2024 10:24:52 AM

**To:** Philip R. Schatz <[PSchatz@WMD-LAW.com](mailto:PSchatz@WMD-LAW.com)>

**Cc:** Ahmad Keshavarz <[ahmad@newyorkconsumerattorney.com](mailto:ahmad@newyorkconsumerattorney.com)>

**Subject:** RE: Mediation in FCRA Case

You don't often get email from [emma@newyorkconsumerattorney.com](mailto:emma@newyorkconsumerattorney.com). [Learn why this is important](#)

Mr. Schatz,

I received an automated email response regarding your service on a grand jury.

Accordingly, it seems like you are not available for the next few weeks, but would you be available for a mediation in April? If so please let us know which dates.

Emma Catherine, Esq.  
Partner





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Email: [emma@newyorkconsumerattorney.com](mailto:emma@newyorkconsumerattorney.com)

**From:** Emma Catherine

**Sent:** Friday, March 1, 2024 4:17 PM

**To:** 'pschatz@wmd-law.com' <[pschatz@wmd-law.com](mailto:pschatz@wmd-law.com)>

**Cc:** Ahmad Keshavarz <[ahmad@newyorkconsumerattorney.com](mailto:ahmad@newyorkconsumerattorney.com)>

**Subject:** Mediation in FCRA Case

Good afternoon,

Our firm represents the Plaintiff in a FCRA case, and our opposing counsel has proposed to have you mediate our case sometime before our trial date in July. Please see links for [the active complaint](#) and [the order on Defendants' Motion for Summary Judgment](#).

Please provide your availability for a mediation over the next few months and please let us know your rates and any other information you believe is important. Thank you.

Emma Catherine, Esq.

Partner



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